

D-9

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

October 27, 2006

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.:06OD-062

Oahu

After-the-Fact Grant of Term Easement to the United States of America,  
Department of the Navy for Chain Link Fence Purposes at Waikele, Ewa, Oahu,  
Tax Map Key: (1) 9-4-12:portions of 3 & 11.

APPLICANT:

United States of America, Department of the Navy, whose mailing address is Commander,  
Pacific Division, Naval Facilities Engineering Command, 258 Makalapa Drive, Suite 100,  
Pearl Harbor, Hawaii 96860-3134.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waikele, Ewa, Oahu, identified by tax map  
key:(1) 9-4-012: portion of parcel 3 and (1) 9-4-012:portion of parcel 11, as shown on the  
attached map labeled Exhibit "A".

AREA:

TMK: (1) 9-4-012:3 (portion) - 4.459 acres, more or less

TMK: (1) 9-4-012:11 (portion) - 1.978 acres, more or less

Total: 6.437 acres, more or less.

ZONING:

State Land Use District:

Agriculture

City and County of Honolulu CZO:

Ag-1

TRUST LAND STATUS:

Section 5(b) land of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State

Constitution: YES \_\_\_\_\_ NO X \_\_\_\_\_

CURRENT USE STATUS:

Vacant and unencumbered. Formerly encumbered by Grant of Easement No. S-5105 to the United States of America, acting by and through the U.S. Army Corps of Engineers, Pacific Division, which expired on December 31, 2005.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove chain link fence over and across State-owned land.

EASEMENT TERM:

Ten (10) years. Commencing on January 1, 2006 and expiring on December 31, 2015.

ANNUAL RENT:

Annual rent to be determined by staff appraiser establishing fair market rent, subject to review and approval by the Chairperson. By way of letter dated August 8, 2006, the Department of the Navy stated, "under federal fiscal law, the Navy is not authorized to compensate the State for its internal or contract expenses in issuing the replacement easement. Therefore, it is requested that the rental amount be established without direct cost to the Navy through a staff appraisal prepared in-house by the Division of Land Management." (Exhibit "C")

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Class No. 1 that states "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION:

Not applicable, government agency.

APPLICANT REQUIREMENTS:

Not applicable. (See attached letter labeled Exhibit "C")

REMARKS:

The Land Board, at its meeting of June 28, 1985, under agenda item F-10, authorized the direct issuance of a 10 year, non-exclusive easement to the United States of America, through the U.S. Army Corps of Engineers, for a seven foot chain link fence to be installed around the perimeter of the Field Station at Kunia facility. The Kunia facility is a high security installation.


By letter dated January 23, 2006, Mr. Dennis Pacht of the Department of the Navy, Real Estate Division, informed the Department that License No. N6274298RP000125 had expired on December 31, 2005 and requested an extension of its term or the issuance of a new easement for a subsequent ten (10) years, through December 31, 2015 (attached letter labeled as Exhibit "B").

The Grant of Easement No. S-5105 cannot be extended. Therefore, staff is recommending a new, term easement be issued to the United States of America, Department of the Navy.

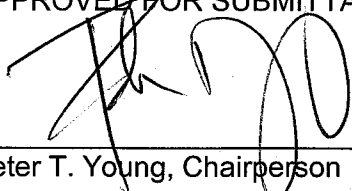
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a term, non-exclusive easement to the United States of America, Department of the Navy, covering the subject area for chain link fence purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current term easement document form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
\_\_\_\_\_  
Steve Lau  
Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Peter T. Young, Chairperson

TMK: 904-0073 (page)

(1)  $\frac{H}{O} \approx 1$

SEC. 2

# HOAEE

PLAT 04

**EXHIBIT "A"**

**ZONE 7**

U. S. MILITARY RESERVATION  
SCHOFIELD BARRACKS

W  
A  
LD. CT  
SEC. 5  
APP. 1000  
1  
0

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FIRST DIVISION		
ZONE	SEC.	PLAT
9	4	12
CONTAINING PARCELS		
SCALE: 1 IN. = 600 FT.		



DEPARTMENT OF THE NAVY  
NAVAL FACILITIES ENGINEERING COMMAND, PACIFIC  
258 MAKALAPA DR., STE. 100  
PEARL HARBOR, HAWAII 96860-3134

11011--  
Ser RES1DC/56  
23 JAN 2006

State of Hawaii  
Department of Land and Natural Resources  
Division of Land Management  
P.O. Box 621  
Honolulu, HI 96809

Gentlemen:

This concerns the Grant of Easement (State GL S-5105), which authorizes the United States of America to install and maintain security fencing on State of Hawaii property at Kunia, Oahu. The easement has expired and the Navy requests an extension of its term to December 31, 2015.

The document has been executed on behalf of the Navy. If acceptable, please execute three (3) copies of the amendment on behalf of the State of Hawaii and thereafter return one fully signed copy to this office. The remaining copies are for your records.

Any questions should be referred to Ms. Darleen Clyburn at 472-1507, by facsimile transmission at 474-5851 or by electronic mail at Darleen.Clyburn@navy.mil.

Sincerely,

DENNIS PACHT  
Realty Operations Officer  
Real Estate

Enclosure: Amendment Number Two to  
Grant of Easement (3 Copies)

EXHIBIT "B"

DEPT. OF LAND &  
NATURAL RESOURCES  
STAFF OF HAWAII

2006 JAN 25 A 9:29

RECEIVED  
LAND DIVISION



DEPARTMENT OF THE NAVY  
NAVAL FACILITIES ENGINEERING COMMAND, PACIFIC  
258 MAKALAPA DR., STE. 100  
PEARL HARBOR, HAWAII 96860-3134

11011  
Ser RESINS  
8 AUG 2006

CERTIFIED MAIL -  
RETURN RECEIPT REQUESTED

State of Hawaii  
Department of Land and Natural Resources  
Division of Land Management  
P.O. Box 621  
Honolulu, HI 96809

Dear Mr. Lau:

This concerns Grant of Easement No. S-5105, which authorized the United States of America to install and maintain security fencing on State of Hawaii property at Kunia, Oahu. We are in receipt of your facsimile transmission of April 19, 2006, to Ms. Darleen Clyburn, formerly of this office, informing us of the need for a new easement vice renewal of Grant of Easement No. S-5105.

We wish to pursue the proposed replacement easement as described in the draft submission to the Board of Land and Natural Resources that you provided. However, one item in the draft submission is of concern. Under the heading captioned "Annual Rent", it is indicated that the rental amount could be established either an independent or staff appraisal, subject to approval of the Chairperson. This is followed by a statement under the heading captioned "Applicant Requirements" that the applicant will pay for an appraisal to determine the initial rent. Our concern is that under federal fiscal law, the Navy is not authorized to compensate the State for its internal or contract expenses in issuing the replacement easement. Therefore, it is requested that the rental amount be established without direct cost to the Navy through a staff appraisal prepared in-house by the Division of Land Management.

Any questions regarding this matter should be referred to Ms. Niru Santos at 472-1512, by facsimile transmission at 474-5851, or by electronic mail at niru.santos@navy.mil.

Sincerely,

*Dennis Pacht*

DENNIS PACHT  
Realty Operations Officer  
Real Estate

EXHIBIT "C"